



CITY OF GLENDALE, CALIFORNIA
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VIA INTERNET AND U.S. MAIL

June 4, 2009

The Honorable Michael J. Copps
Commissioner Jonathan Adelstein
Commissioner Robert McDowell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: GN Docket No. 09-51

Honorable Acting Chairman and Commissioners:

As Mayor of the City of Glendale, California ("Glendale"), I am submitting these comments to the Commission on behalf of Glendale. We applaud your request for comments as to how the Commission may develop and implement the National Broadband Plan; and for your commitment to work collaboratively with other agencies at all levels of government, including local governments for the development of broadband access to all people in the United States. We are especially appreciative of Commissioner Jonathan S. Adelstein's comment "to make [the Commission's] plan more than just words, we must start by upgrading our communications infrastructure in every corner of this country."

As the Commission develops the National Broadband Plan we ask that it be mindful of the following points that are critical to local jurisdictions such as Glendale with regard to the siting of wireless communications facilities.

Zoning Decisions Regarding The Siting of Wireless Communications Facilities

Local jurisdictions are greatly concerned that the normal locally-based zoning process to control the siting of wireless facilities be preserved during the development of the broadband plan. This should include such aspects of siting such as local control over utility and street light poles, public rights-of-way and aesthetic concerns.

There is no doubt that Congress intended that such zoning processes be preserved and the lack of ambiguity in Congress' intent makes it clear that the Commission has no legal authority to usurp local land use decisions and processes. We ask that the Commission be vigilant to deny any proposals that would place the Commission outside of its authority where Congress clearly intended fluidity and respect for the local zoning processes.

We ask that the Commission provide assurance to local jurisdictions that nothing in the National Broadband Plan will be used to undercut local government's zoning authority. The National Broadband Plan should not become a vehicle whereby local jurisdictions are restricted from exercising their rights under the Telecommunications Act.



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The Commission should also take into account the legitimate interests of local governments in matters of exclusively local concern and strive to preserve the ability of local jurisdictions to make local land use decisions over wireless antenna siting matters.

Radio Frequency Emissions

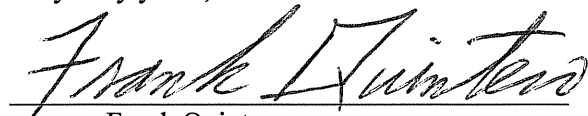
Although the Telecommunications Act prohibits states and localities from denying wireless tower siting permits for environmental reasons based on radio frequency emissions that comply with Commission standards, local jurisdictions are concerned about the reliability of such standards. There is an ongoing debate within the scientific community and among governing bodies throughout the world regarding how thoroughly the long-term health effects of radio frequency emissions are understood including questions raised regarding how well the existing regulations established by the Commission protect more vulnerable populations such as school-aged children, and how well they protect against the cumulative effect of radio frequency emissions on people who live or work in close proximity to multiple cellular facilities. We ask that the Commission review the standards currently established for wireless facilities and consider more recent scientific studies that may possibly result in a revision of the Commission standards.

Furthermore, the Commission should note that while the Act's emissions preemption mentions "placement, construction, and modification," it does not pertain to operations. It is only in the area of "placement, construction, and modification" that the Act makes an exception to its general preference for plenary FCC rulemaking. As such we suggest that the authority of local jurisdictions for operations of wireless antennas be recognized in the National Broadband Plan.

Conclusion

There are, of course, many more issues of concern to local jurisdiction but I trust these preliminary thoughts will provide guidance to the Commission. We look forward to working with the Commission to develop this very important national broadband policy in the months ahead.

Very truly yours,

A handwritten signature in black ink, reading "Frank Quintero", written over a horizontal line.

Frank Quintero
Mayor, City of Glendale

cc: Honorable Barack Obama, President of the United States
Honorable Diane Feinstein, U.S. Senator
Honorable Barbara Boxer, U.S. Senator
Honorable Adam Schiff, Congressman 29th District
James E. Starbird, City Manager
Scott H. Howard, City Attorney
Christina R. Sansone, General Counsel—Public Works